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No. OFFICE OF THE CLERK

IN THE

Supreme Court of the United States

October Term, 1996

EDWARD G. TINSLEY,

Petitioner,

v.

TRW INCORPORATED,

and

EQUIFAX CREDIT INFORMATION SERVICES, INCORPORATED,

Respondents.

On Petition For A Writ Of Certiorari To The United States Court Of Appeals For The Fourth Circuit

---

PETITION FOR A WRIT OF CERTIORARI

EDWARD G. TINSLEY
314 - 60th Street, N.E.
Washington, D.C. 20019
(202) 396-8543
Petitioner

CASILLAS PRESS • 1717 K STREET, N.W. • WASHINGTON, D.C. 20006 • (202) 223-1220

19 pp

QUESTIONS PRESENTED

1. Whether a federal district court can withhold entry of judgment indefinitely.

2. Whether a federal district court can dismiss a civil case when judgment has not been entered, and consequently, does not comply with Rule 79(a) of the Federal Rules of Civil Procedure.

3. Whether a federal appellate court can refuse to review lower court judgments.

4. Whether it was proper for the Court of Appeals to sanction dismissal of this case, not only with a decision in conflict with this Court, but with the decision and order of judgment not entered within the meaning of Rule 4(a) of the Federal Rules of Appellate Procedure.

PARTIES TO THE PROCEEDING

The Petitioner is Edward G. Tinsley.

The Respondents are TRW Information Systems and Services, Incorporated, and Equifax Credit Information Services, Incorporated.

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OPINIONS BELOW

The opinion of the U.S. District Court for the District of Maryland dated September 27, 1996 is set forth in the Appendix at App. 1a. The Unpublished Opinion of the Fourth U.S. Circuit Court of Appeals is set forth in the Appendix at App. 4a. The Fourth Circuit Court of Appeals' denial of a timely filed Petition for Rehearing is set forth in the Appendix at App. 6a.

JURISDICTION

The date the judgment sought to be reviewed was entered May 8, 1997. The date of the Order respecting rehearing was July 7, 1997. The statutory provision believed to confer on this Court jurisdiction to review on a writ of certiorari is grounded upon 28 U.S.C. § 1254(1).

CONSTITUTIONAL PROVISION INVOLVED

Amendment VII of the United States Constitution provides:

> In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

STATEMENT OF THE CASE

Petitioner filed a civil action against Respondents for violation of the Fair Credit Reporting Act (F.C.R.A.), 15 U.S.C. § 1681 e(b). District Court dismissed the case via summary judgment in favor of Respondents. See PJM-94-1268, reported as *Tinsley v. TRW, Inc.*, 879 F.Supp. 550 (D.Md.1995), *aff'd*, 64 F.3d 659 (4th Cir. 1995), *cert. denied*, 116 S.Ct. 710 (1996).

Feeling that genuine issues of material fact had been presented, Petitioner filed a similar action against Respondents. Action was dismissed via summary judgment based on res judicata in favor of

the Respondents. District Court Judgment dated September 27, 1996, has not been entered as of September 5, 1997. Petitioner, after establishing jurisdiction, appealed case to the Fourth Circuit Court of Appeals which affirmed lower court's decision and judgment on May 8, 1997.

A timely filed Petition for Rehearing pointed out that Fourth Circuit had affirmed an incorrect district court order. Petition for Rehearing also pointed out that the order that Fourth Ciruit DID AFFIRM, was in conflict with two Federal Appellate Circuits. Petition for Rehearing was denied on July 7, 1997, without ruling on the order which was the subject of the appeal, and without addressing the conflict between the Circuits.

REASONS FOR GRANTING THE WRIT

The Prior Action

The Petitioner's prior case, *Tinsley v. TRW, Inc.*, 879 F.Supp. 550 (D.Md.1995), was erroneously dismissed in favor of the Respondents. In this case, the Petitioner properly combined his legal (15 U.S.C. § 1681e(b)) and his equitable (15 U.S.C. § 1681n) claims in the same action. This case was dismissed by entry of summary judgment in favor of the Respondents in March, 1995, in conflict with a 1990 U.S. Supreme Court ruling made specifically for the Fourth Circuit, which states:

> "[W]hen legal and equitable claims are joined in the same action, the right to jury trial on the legal claim, including all issues common to both claims, remains intact." *Lytle v. Household Mfg., Inc.*, 110 S.Ct. 1331, *Id.* at 2.

Legal questions were involved in this case. Did Respondents "willfully" (15 U.S.C. § 1681n) violate the law? Did Respondents "negligently" (15 U.S.C. § 1681o) violate the law? Did Respondents violate the law at all, in this case? While district court had great leeway in resolving equitable claims of action via adjustment of attorney's fees for "negligent" violations as provided for at 15 U.S.C. § 1681o(2), or in case of "willful" violations, the adjustment of

attorney's fees *as well as* punitive damages as provided for at 15 U.S.C. § 1681n(2) + (3),[1] it was clearly an issue for jury to resolve the Petitioner's legal (15 U.S.C. § 1681e(b))[1] claim, especially since Petitioner demanded a jury trial and presented genuine issues of material fact.

The Instant Action

The instant action, *Tinsley v. TRW,Inc.*, PJM-96-273, (S.D.Md.1996), should not be dismissed on the basis of res judicata because the U.S. Supreme Court has held:

> "[T]he Seventh Amendment precludes according collateral estoppel effect to a district court's determinations of issues common to equitable and legal claims where the court resolved the equitable claims first solely because it erroneously dismissed the legal claims." *Lytle v. Household Mfg., Inc.*, 110 S.Ct. 1331, *Id.* at 1.

I

Writ should be granted to keep this Court's decision consistent with this Court's approach involving a wrongful denial of a petitioner's right to a jury trial on legal issues

The U.S. Supreme Court went on to state in *Lytle*, that:

> "[O]ur conclusion is consistent with this Court's approach in cases involving a wrongful denial of a petitioner's right to a jury trial on legal issues. In such cases, we have never accorded collateral-estoppel effect to the trial court's factual determinations. Instead, we have reversed and remanded each case in its entirety for a trial before a jury." See *Meeker v. Ambassador Oil Corp.*, 375 U.S.160, 84 S.Ct. 273, 11 L.Ed.2d 261 (1963) (*per curiam*) (reversing trial court's decision to try equitable claims first and thereby to bar jury trial on legal claims that relied on same facts); *Tull v. United States*, 481 U.S.

[1] See App. 9a.

> 412, 107 S.Ct. 1831, 95 L.Ed.2d 365 (1987) (reversing and remanding claims for monetary penalties and injunctive relief because trial court improperly denied plaintiff a jury trial on the claims for monetary penalties); *Granfinanciera, S.A. v. Nordberg*, 492 U.S. 33, 109 S.Ct. 2782, 106 L.Ed.2d 26 (1989) (reversing and remanding Bankruptcy Court's judgment because petitioners were denied a jury trial and according no weight to trial judge's factual findings.) *Id.* 1337.

So clearly, the prior case was erroneously dismissed by summary judgment, and the instant case was erroneously ruled res judicata. In fact, summary judgment should have been entered in favor of the Petitioner, in the judicial interst in economy of resources.

The Respondents, in opposition to Petitioner's Cross-Motion for Summary Judgment,[2] did not present a genuine issue of material fact. However, the primary function of the U.S. Supreme Court is not to correct low court errors, consequently, the Petitioner's prevailence in this matter must yield to address more important issues.

ENTRY OF JUDGMENT - DISTRICT COURT

District Court dismissed this case with an Opinion and Order dated September 27, 1996, which was never entered, thus preventing an appeal from being taken.

> "[U]ntil order or judgment is entered in civil docket, case is still in district court and there is no finality, and there can be no appeal." *O'Brien v. Harrington*, (1956), 233 F.2d 17, 98 U.S.App.D.C. 138.

District Court refused to enter judgment in this case. Court in *In re Forstner Chain Corp.*, (1st Circuit.1949), 177 F.2d 572, concluded that refusal to enter judgment is an appealable order. Court in *State National Bank of El Paso v. United States*, 488 F.2d 890 (5th Cir.1974), stated in part, "[W]e have concluded it was error

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[2] Cross-Motion was not entered in civil docket.

to refuse to enter judgment, consequently we remand this case with directions to enter judgment."

ENTRY OF JUDGMENT - APPELLATE LEVEL

A premature appeal was filed in this case. See *Tinsley v. TRW, Inc.*, case no. 96-2493 (4th Cir.1996). Jurisdiction was established and a subsequent appeal was filed. See *Tinsley v. TRW, Inc.*, case No. 97-1334 (4th Cir.1997). Petitioner stipulated in his docketing statement, his Informal Brief, and in his Motion for Summary Judgment that the Order being appealed was a summary judgment Order dated September 27, 1996. Respondents stipulated in their Informal Brief and in their Opposition to Motion for Summary Judgment,[3] that the Order being appealed was a summary judgment Order dated September 27, 1996. Despite these admissions by both parties, Appellate Court affirmed a motion denial Order dated February 21, 1997.

A timely Petition for Rehearing was filed which pointed out that Fourth Circuit Local Rule 40(b)i[4] applied, here. A material fact or legal matter was overlooked in the decision. Appellate Court had affirmed an incorrect District Court Order.

Petition for Rehearing pointed out Fourth Circuit Local Rule 40(b)iii[5] also applied, here. The Opinion of the Order that the Fourth Circuit DID affirm, was in conflict with two Federal Circuits, and the conflict was not addressed in the Opinion.

Petition for Rehearing was denied without addressing the conflict between the Circuits, and without ruling on the Order which was the subject of the appeal. It is perplexing that Court of Appeals ruled on a correct summary judgment order in the premature appeal,[6] however, after jurisdiction was established, Court of

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[3] Opposition to Motion for Summary Judgment did not present a genuine dispute of facts.

[4] See App. 13a.

[5] See App. 13a.

[6] See App. 12a.

Appeals ruled on an incorrect motion denial order.[7]

The U.S. Supreme Court in *Lytle v. Household Mfg., Inc.*, 110 S.Ct. 1331, also held that:

> "[I]t would be anomalous to hold that a district court may not deprive a litigant of his right to a jury trial by resolving an equitable claim before a jury hears a legal claim raising common issues, but that a court may accomplish the same result by erroneously dismissing the legal claim." *Id.* 1336 at [4, 5].

In the instant case, District Court has acomplished the same result by refusing to enter judgment.

II

District court judgment does not comply with Federal Rules of Civil Procedure

The Ninth U.S. Circuit Court of Appeals has ruled:

> "[I]t is date of 'entry' of a judgment or order that starts the time period for noticing an appeal; a judgment or order is not entered within the meaning of Federal Appellate Rule 4 (a) unless it is entered in compliance with Federal Civil Rule 58, requiring every judgment be set forth on a separate document and Federal Civil Rule 79(a) detailing the civil docketing procedure to be followed by the district court when entering the judgment." ***Beaudry Motor Co. v. Abco Properties, Inc.***, C.A.9 (Ariz.), 780 F.2d 751, ***cert. denied***, 107 S.Ct. 100, 479 U.S. 825, 93 L.Ed.2d 51.

Federal Civil Rule 79(a)[8] states in relevant part, that, "[T]he entry of an order or judgment shall show the date the entry is made." The key word here is SHALL. The entry of an order or judment SHALL show the date the entry is made. In this case, the District Court Judgment does not show the date the entry was made.

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[7] See App. 5a.

[8] See App. 8a, preceding the last sentence.

In essence, the Court of Appeals has sanctioned the dismissal of this case with a decision in conflict with the U.S. Supreme Court, and a judgment that does not comply with Federal Civil Rule 79(a), and has not been entered within the meaning of Federal Appellate Rule 4(a).[9]

III

District Court decision is in conflict with this Court, and the Fourth Circuit Court of Appeals

If the Fourth U.S. Circuit Court of Appeals' judgment to affirm lower court decision is allowed to stand as correct, it will mean that Federal District Court and Federal Appellate Court have successfully dismissed a case with an unentered decision in conflict with a 1990 U.S. Supreme Court decision which states:

> "[T]he Seventh Amendment precludes according collateral-estoppel effect to a district court's determinations of issues common to equitable and legal claims where the court resolved the equitable claims first solely because it erroneously dismissed the legal claims." *Lytle v. Household Mfg., Inc.*, 110 S.Ct. 1331 (1990). *Id.* 1331 at 1.

If the Fourth U.S. Circuit Court of Appeals' judgment to affirm lower court decision is allowed to stand as correct, it will mean that Appellate Court has successfully dismissed a case with an unentered decision in conflict with its own Court, which states:

> "[I]f district court resolves issues common to both legal and equitable claim as result of erroneous dismissal of legal claim, determinations by district court do not collaterally estop later jury trial of legal claim." *Keller v. Prince George's County*, 923 F.2d 30 (4th Cir.1991).

Other negative implications could apply if decisions are allowed to stand as correct, for it could imply that:

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[9] See App. 8a.

1. federal district court can withhold entry of judgment indefinitely, subjecting a party to delay, against Federal Civil Rule 58, which is designed to encourage all reasonable speed in formulating and entering the judgment when the case has been decided, and against Federal Civil Rule 79(a), which states judgments and orders SHALL show the date the entry is made.

2. federal district court may (erroneously or otherwise) dismiss a civil case as long as judgment is not entered.

3. lower courts, in all cases, do not have to abide by precedents set by higher courts.

4. in civil cases, district court can render a jury demand null and void, even when a party presents genuine issues of material fact.

5. docketing is a matter of judicial discretion in federal district court. A prior case, PJM-94-1268, and the instant case, PJM-96-273, both contain instances in which several key docket entries do not have entry dates in compliance with Federal Civil Rule 79(a).

6. review in federal appellate court is a matter of judicial discretion. In the instant case, Court of Appeals refused to issue a ruling on the Order which was the subject of the appeal. Review in the U.S. Supreme Court is a matter of judicial discretion, review in federal appellate court is a matter of right.

Additionally, if decisions are allowed to stand as correct, could message get to other Federal Circuits the method the Fourth Circuit used to dismiss a civil case with a decision in conflict with the U.S. Supreme Court? With its own court?

The District Court Opinion for this case implies that a civil case can be dismissed if a party addresses an argument, but without "directly addressing" an argument.[10] Might this place an additional burden on the U.S. Supreme Court? In a subsequent proceeding,

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[10] See Appendix 1a, 2nd paragraph, last sentence.

will this Court be summoned to distinguish whether an issue is "*merely*" addressed, versus whether an issue is "*directly*" addressed?

Certiorari Granted Previously on Identical Issues

In *Lytle v. Household Mfg., Inc.*, 110 S.Ct. 1331, this Court granted certiorari on the following question:

> "Did the Fourth Circuit correctly hold that district court violations of the Seventh Amendment are unreviewable by the appellate courts if the trial judge, after violating the Amendment by refusing to empanel a jury, compounds that Constitutional infraction by deciding himself the very factual issue which should have been presented to and decided by a jury?" *Id.* 1336 at footnote 3.

In this case, the Fourth Circuit is again holding that district court violations of the Seventh Amendment are unreviewable (Fourth Circuit refused to review and rule on this case) by appellate courts when the trial judge, after violating the Amendment by refusing to empanel a jury, compounds the Constitutional infraction by deciding himself the very factual issue which should have been presented to and decided by a jury.

Additionally, the Fourth Circuit has affirmed the actions of a Court who has even further compounded the Constitutional infraction by refusing to enter judgment.

RES JUDICATA

The U.S. Supreme Court could very well reverse this case on the basis of res judicata. The issue of a court resolving legal and equitable matters of an action, has already been ruled on by the U.S. Supreme Court, specifically for the Fourth Circuit Court of Appeals. Here, clearly, the parties are the same, the subject matter is the same, and the fact that the U.S. Supreme Court has ruled on this matter previously, means that a final determination was entered in this matter. Reversal on the basis of res judicata would be appropriate.

In concluding, the lower courts in this case have failed to abide by U.S. Supreme Court precedents. These precedents should not be taken lightly. As this Court only grants certiorari in about 1% of the cases filed each term, the 1% of the time that this Court speaks, it is the judicial duty and obligation of all courts nationwide to listen and comply.

CONCLUSION

The petition for writ of certiorari should be granted.

Respectfully submitted,

EDWARD G. TINSLEY
314-60th Street, N.E.
Washington, D.C. 20019
(202) 396-8543

Petitioner

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IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND

EDWARD G. TINSLEY Plaintiff	*	
v.	*	Civil Action No.
TRW INCORPORATED, et al. Defendants	*	PJM 96-273

MEMORANDUM OPINION

Edward G. Tinsley, acting pro se, sues Defendants TRW Inc. (TRW) and Equifax Credit Information Services, Inc. (Equifax) for "willful non-compliance" with the Fair Credit Reporting Act, 15 U.S.C.A.§§1681-1681 (West 1982 & Supp. 1995). Tinsley claims that Defendants' actions resulted in an unfavorable credit report that unfairly prevented him from pursuing real estate investment opportunities and from refinancing his home.

TRW has filed a Motion to Dismiss and/or for Summary Judgment; Equifax has filed a Motion for Summary Judgment; and Tinsley has filed a Cross-Motion for Summary Judgment. Defendants argue that the suit is barred by the doctrine of *res judicata* since the same facts and issues involved in this case were previously addressed by this Court in a suit in which final judgment was entered in favor of TRW and Equifax and against Tinsley. In his Opposition to Defendants' motions and in his Cross-Motion for Summary Judgment, Tinsley acknowledges that this case is "similar" to the prior case, but without directly addressing Defendants' *res judicata* argument, suggests that "under certain circumstances cases can be heard again."

The Court has determined to GRANT TRW and Equifax's motions and DENY Tinsley's cross-motion.

I.

Summary judgment for a moving party is appropriate if there is no genuine issue of material fact that could lead a rational trier of fact to find for the non-moving party. Fed. R. Civ. P. 56(a); *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242 (1986).

II.

The complaint in this case is virtually identical to the one that Tinsley filed in the Circuit Court for Prince George's County in April 1994, later transferred to this Court by Defendants TRW and Equifax (Civil Action No. PJM 94-1268).[1] The Court granted TRW and Equifax's Motion for Summary Judgment in that case and entered final judgment in their favor because Tinsley failed to demonstrate that he incurred any damages as a result of any action by the Defendants and also failed to show that either Defendant had negligently or willfully violated the Fair Credit Reporting Act. Tinsley took an appeal to the United States Court of Appeals for the Fourth Circuit, which affirmed this Court's judgment in an unpublished *per curiam* opinion decided on August 15, 1995. *See Tinsley v. TRW Inc.*, 879 F. Supp 550 (D.Md 1995), *aff'd*, 64 F. 3d 659 (4th Cir. 1995). Tinsley's petition for writ of certiorari to the Supreme Court of the United States was denied on January 8, 1996. *Tinsley v. TRW, Inc.*, 116 S.Ct. 710 (1996).

Since the instant complaint involves the same events over the same time period of time, the same parties, and the same issues as those addressed in the prior adjudication, there is no question that the suit is barred by *res judicata*. *Allen v. McCurry*, 449 U.S. 90, 94 (1990); *Meekins v. United Transportation Union*, 946 F. 2d 1054, 1057 (4th Cir. 1991).

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[1] Trans Union Corporation was named as a third defendant in Tinsley's original suit, but it was dismissed by a stipulation of dismissal approved by the Court on July 20, 1994.

Tinsley's attempt to skirt the edges of *res judicata* by attacking the final judgment in the prior litigation is patently deficient. Analogizing this case to one in which the Court vacated an order granting summary judgment and reinstated the case because defense counsel omitted to cite adverse controlling precedent is a false comparison. The concept of the earlier case was that the Court was improperly led to an incorrect result on the applicable law. In Tinsley's case, the Court was not only properly led to the correct result on the applicable law; the court of appeals for this circuit agreed. Tinsley has already had his day in court. This case is at an end.

A separate Order will be entered implementing this decision.

s/Peter J. Messitte

PETER J. MESSITTE
UNITED STATES DISTRICT JUDGE

September 27, 1996

[No date of entry]

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 97-1334

EDWARD G. TINSLEY

Plaintiff-Appellant,

versus

TRW, INCORPORATED: EQUIFAX CREDIT INFORMATION SERVICES, INCORPORATED,

Defendants-Appellees.

Appeal from the United States District Court for the District of Maryland, at Greenbelt. Peter J. Messitte, District Judge. (CA-96-273-PJM)

Submitted: May 1, 1997 Decided: May 8, 1997

Before WIDENER and MURNAGHAN, Circuit Judges, and PHILLIPS, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

Edward G. Tinsley, Appellant Pro Se. Sandy David Baron, GOLDSTEIN & BARON, CHARTERED, College Park, Maryland; Thomas Moss Wood, IV, Nathan Daniel Adler, NEUBERGER, QUINN, GIELEN, RUBIN & GIBBER, P.A., Baltimore, Maryland, for Appellees.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Appellant appeals the district court's order denying his motion for entry of final judgment. Our review of the record discloses no reversible error. Accordingly, we affirm. The Appellant's motion for summary judgment is hereby denied. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED

[Date of entry 5-8-97]

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

FILED
July 7, 1997

No. 97-1334
CA-96-273-PJM

EDWARD G. TINSLEY
Plaintiff—Appellant

v.

TRW, INCORPORATED: EQUIFAX CREDIT INFORMATION SERVICES INCORPORATED
Defendants—Appellees

ORDER

Appellant has filed a petition for rehearing.
The Court denies the petition for rehearing.

For the Court,

/s/Patricia S. Connor
CLERK

[Date of entry 7-7-97]

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

EDWARD G. TINSLEY Plaintiff	*	
v.	*	Civil Action No. PJM 96-273
TRW INCORPORATED, et al. Defendants	*	

FINAL ORDER OF JUDGMENT

Upon consideration of Defendant TRW Inc.'s Motion to Dismiss and/or for Summary Judgment, Defendant Equifax Credit Information Services, Inc.'s Motion for Summary Judgment, and Plaintiff Tinsley's Cross-Motion for Summary Judgment, it is for the reasons set forth in the accompanying Memorandum Opinion, this 27th day of September, 1996.

ORDERED that TRW Inc. and Equifax Credit Information Services, Inc.'s Motions for Summary Judgment are hereby GRANTED; and it is further

ORDERED that Tinsley's Cross-Motion for Summary Judgment is hereby DENIED; and it is further

ORDERED that final judgment is hereby entered in favor of Defendants TRW, Inc. and Equifax Credit Information Services, Inc. and against Plaintiff Edward G. Tinsley.

s/Peter J. Messitte

PETER J. MESSITTE
UNITED STATES DISTRICT JUDGE

[No date of entry]

Federal Appellate Rule 4(a)

Rule 4. Appeal as of Right-When Taken

(a) Appeals in Civil Cases.

(1) In a civil case in which an appeal is permitted by law as of right from a district court to a court of appeals the notice of appeal required by Rule 3 shall be filed with the clerk of the district court within 30 days after the date of entry of the judgment or order appealed from; but if the United States or an officer or agency thereof is a party, the notice of appeal may be filed by any party within 60 days after such entry. If a notice of appeal is mistakenly filed in the court of appeals, the clerk of the court of appeals shall note thereon the date on which it was received and transmit it to the clerk of the district court and it shall be deemed filed in the district court on the date so noted.

Federal Civil Rule 79(a)

Rule 79. Books and Records Kept by the Clerk and Entries Therein

(a) Civil Docket. The clerk shall keep a book known as "civil docket" of such form and style as may be prescribed by the Director of the Administrative Office of the United States Courts with the approval of the Judicial Conference of the United States, and shall enter therein each civil action to which these rules are made applicable. Actions shall be assigned consecutive file numbers. The file number of each action shall be noted on the folio of the docket whereon the first entry of the action is made. All papers filed with the clerk, all process issued and returns made thereon, all appearances, orders, verdicts, and judgments shall be entered chronologically in the civil docket on the folio assigned to the action and shall be marked with its file number. These entries shall be brief but shall show the nature of each paper filed or writ issued and the substance of each order or judgment of the court and of the returns showing execution of process. The entry of an order or judgment shall show the date the entry is made. When in an action trial by jury has been properly demanded or ordered the clerk shall enter the word "jury" on the folio assigned to that action.

15 U.S.C. sec. 1681e(b) provides;
§1681e. Compliance procedures

(b) Accuracy of report

Whenever a consumer reporting agency prepares a consumer report it shall follow reasonable procedures to assure maximum possible accuracy of the information concerning the individual about whom the report relates.

(Pub. L. 90-321, title VI, §607, as added Pub. L. 91-508, title VI §601, Oct. 26, 1970, 84 Stat. 1130.)

15 U.S.C. sec. 1681n provides;
§1681n. Civil liability for willful noncompliance

Any consumer reporting agency or user of information which willfully fails to comply with any requirement imposed under this subchapter with respect to any consumer is liable to that consumer in an amount equal to the sum of—

(1) any actual damages sustained by the consumer as a result of the failure;

(2) such amount of punitive damages as the court may allow; and

(3) in the case of any successful action to enforce any liability under this section, the costs of the action together with reasonable attorney's fees as determined by the court.

(Pub.L. 90-321, title VI, §616, as added Pub.L. 91-508, title VI, §601, Oct. 26, 1970, 84 Stat. 1134.)

15 U.S.C. sec. 1681o provides;
§1681o. Civil liability for negligent non-compliance

Any consumer reporting agency or user of information which is negligent in failing to comply with any requirement imposed under this subchapter with respect to any consumer is liable to that consumer in an amount equal to the sum of—

(1) any actual damages sustained by the consumer as a result of the failure;

(2) in the case of any successful action to enforce any liability under this section, the costs of the action together with reasonable attorney's fees as determined by the court.

(Pub.L. 90-321, title VI, §617, as added Pub.L. 91-508, title VI, § 601, Oct. 26, 1970, 84 Stat. 1134.)

UNPUBLISHED
UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 96-2493

EDWARD G. TINSLEY,

Plaintiff-Appellant

versus

TRW, INCORPORATED; EQUIFAX CREDIT INFORMATION SERVICES, INCORPORATED

Defendants-Appellees

Appeal from the United States District Court for the District of Maryland, at Baltimore. Peter J. Messitte, District Judge. (CA-96-273-PJM)

Submitted: December 19, 1996 Decided: December 31, 1996

Before ERVIN and MOTZ, Circuit Judges, and BUTZNER, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

Edward G. Tinsley, Appellant Pro Se. Sandy David Baron, GOLDSTEIN & BARON, CHARTERED, College Park, Maryland; Thomas Moss Wood, IV, Nathan Daniel Adler, NEUBERGER, QUINN, GIELEN, RUBIN & GIBBER, P.A., Baltimore, Maryland, for Appellees.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Appellant appeals the district court's order granting summary judgment to the Defendants on his action filed under the Fair Credit Reporting Act, 15 U.S.C.A. §1681 (West 1982 & Supp. 1996). Our review of the record and the district court's opinion discloses no reversible error. Accordingly, we affirm on the reasoning of the district court. *Tinsley v. TRW, Inc.*, No. CA-96-273-PJM (D. Md. Sept. 30, 1996). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED

[Entry Date 12-31-96]

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

Rule 40(b).[a] Statement of Purpose

A petition for rehearing must contain an introduction stating that, in counsel's judgement, one or more of the following situations exist:

i. A material factual or legal matter was overlooked in the decision.

ii. A change in the law occurred after the case was submitted and was overlooked by the panel.

iii. The opinion is in conflict with another decision of the Court or of another court of appeals and the conflict is not addressed in the opinion.

A petition should only be made to direct the Court's attention to one or more of the above situations. The points to be raised should be succinctly listed in counsel's statement of purpose and, if a petition lacks such a statement, it will be returned to counsel without filing.

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[a] Originally "Local Rule," editorially redesignated "Rule."